

DIVISION 2. PERMITS, MEDALLIONS, ETC.

Sec. 20-36. Food dealer's permit.

(a) No person shall operate a food establishment, temporary food service establishment, or mobile food unit, who does not possess a valid permit issued to him by the health officer. The permit shall be known as a "food dealer's permit". Only a person who complies with the requirements of this article shall be entitled to receive or retain a food dealer's permit. A food dealer's permit shall only be valid for the location specified thereon and may not be transferred from place to place. A food dealer's permit shall become void upon the closing of any sale of the establishment unless transferred pursuant to a pretransfer inspection conducted pursuant to subsection (e), below. A valid permit shall be posted in view of the public in every food establishment and every temporary food service establishment. Permits for temporary food service establishments shall be issued for a period of time not to exceed 21 consecutive days. A temporary food dealer's permit shall not be required if:

- (1) The temporary food service establishment is operated by a person who holds a valid food dealer's permit issued under this article;

- (2) The operation of the temporary food service establishment is within the scope of his regulated and inspected activities as the holder of a food dealer's permit; and
- (3) All food is prepared inside of the permitted establishment by the holder of the valid food dealer's permit and then served outdoors on the same premises.

All food dealer's permits shall remain the property of the department.

(b) Any person desiring to obtain a food dealer's permit shall make written application for a permit on forms provided by the health officer. The application shall include the applicant's full name and post office address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses; the location and type of proposed food processing or food service establishment; and the signature of the applicant. If the application is for a temporary food service establishment, the application shall be made at the department offices in person at least seven days prior to the beginning of temporary food service operations. No temporary food dealer's permit shall be granted unless the application also sets out the inclusive dates of the proposed operations, and the name, address, and telephone number of the owner or owners of the property where the temporary food service establishment is to be located, and attached to the application is a statement signed by the owner of the property or his authorized agent, stating that arrangements have been made for the proper disposal of all rubbish, trash, and garbage and for maintaining the property free from litter and nuisance during the total period of operation up to and including any clean up time required to remove all rubbish, trash, garbage, and litter resulting from the food service. A description of the arrangements and the attendant facilities must be included.

(c) Prior to approval of an application for a food dealer's permit or mobile food unit medalion, the health officer shall inspect the proposed establishment to determine compliance with the provisions of this article.

(d) The health officer shall issue a permit to the applicant if inspection reveals that the proposed food establishment complies with the requirements of this article.

(e) In the event of the sale of a licensed food establishment, the food dealer's permit may be transferred from the establishment seller to the buyer based upon a pretransfer inspection of the establishment by a health officer. Requests for transfer shall be made by filing a transfer application with the health officer at least ten days prior to the closing of the sale of the establishment and shall include the same information specified for original permits in subsection (b), above. The health officer shall cause the establishment to be inspected and approve the permit transfer if the inspection reveals that the food establishment complies with the requirements of this article. A nonrefundable transfer inspection fee of \$50.00 shall be payable for a transfer application. The transferred permit shall be valid for the remaining life of the original permit.

(f) Any person desiring to operate a restricted warehouse may request in the application therefor that his food dealer's permit be issued on a basis limited exclusively to the operation of a restricted warehouse. If issued, the permit shall be designated "restricted warehouse only" on the face of the permit. It shall be unlawful for any person to cause, suffer or permit the receipt, keeping or distribution of any potentially hazardous food or of any food that is not in unbroken sealed packages upon any premises operated under a food dealer's permit that is limited to the operation of a restricted warehouse.

(g) Any person desiring to operate a packaged-food-only food establishment may request in the application that his food dealer's permit be issued on a basis limited exclusively to the operation of a packaged-food-only food establishment. The permit shall be designated "packaged-food-only food establishment" on the face of the permit. It shall be unlawful for any person to cause, suffer or permit the receipt, storage, or distribution of any food that is in unsealed, opened, or broken packages upon any premises operated under this type of food establishment permit.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-37. Mobile food unit medallion.

(a) Any person desiring to operate one or more mobile food units in the city other than restricted operations mobile food units shall have a valid food dealer's permit and shall obtain an individual medallion for each operating mobile food unit from the health officer. Each medallion will be issued unit-by-unit only after an inspection reveals satisfactory compliance with the provisions of section 20-22 of this Code. The medallions shall remain the property of the department.

(b) No person shall operate or cause to be operated any mobile food unit that does not possess a valid medallion issued by the health officer.

(c) A medallion shall be affixed by the health officer or his authorized agents on the mobile food unit in a conspicuous place where it can be viewed by patrons. The medallion shall set forth the business name, the manufacturer's serial number for that unit, the state registration number, and the name and address of the person who applied for the medallion.

(d) Application for a medallion shall be made on forms provided by the health officer. The application shall include the applicant's full name and post office address; the address of the location at which the mobile food unit is stationed when not in use; the business name and address of the commissary or other fixed food service establishment from which potentially hazardous food supplies are obtained; the address of the servicing area; a description of the mobile food unit that includes the manufacturer's make, model, and serial number, the vehicle's state registration number, and the signature of the applicant.

(e) All of the provisions of this article pertaining to food service establishments shall apply to the commissary or other fixed food service establishment from which the food supplies are obtained. Any suspension or revocation of the food dealer's permit for a food service establishment will be cause for suspension or revocation of the medallion of any mobile food unit that is supplied or serviced by the establishment.
(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-38. Fees; transfer of medallion.

(a) At the time of issuance of an original food dealer's permit and each renewal thereof, the person requesting the permit shall pay to the health officer a permit fee for one complete year from the date of issuance. Except as otherwise provided, permit fees shall be determined by the total number of persons employed full-time or part-time by the food processing or food service establishment.

(b) Fees shall be determined according to the following schedule, except that food service establishments (other than temporary food service establishments) that operate exclusively as part of a nonprofit organization shall be charged \$20.00 for each food dealer's permit. Temporary food service establishments, as defined, shall be charged a nonrefundable base permit fee of \$60.00 for each day that the permit is valid, provided, however, that the total fee for a temporary food service establishment while participating in an event with a duration of ten consecutive days or more at the same location shall be \$600.00.

(1) *Permit fees.* The nonrefundable annual fee for a food dealer's permit shall be based on the number of employees of the establishment to be licensed and the following schedule:

a. One to nine employees	\$200.00
b. Ten to 25 employees...	330.00
c. 26 to 50 employees....	480.00
d. 51 to 100 employees...	630.00
e. 101 or more employees	780.00

(2) *Mobile food unit medallion—Fee; transferability.* At the time of issuance of an original medallion to operate a mobile food unit and each renewal thereof, the person requesting the medallion shall pay to the health officer a fee for one complete year from the date of issuance. The fee for a medallion shall be \$200.00. Medallions are not transferable from one person to another nor from one mobile food unit to another mobile food unit.

(3) *Same—Replacement fee.* An individual who has lost a valid, current food dealer's

permit or mobile food unit medallion may obtain a replacement from the health officer for a fee of \$10.00.

- (4) *Special investigative fee.* In addition to the permit fee as specified in item (1) above, there is hereby assessed a special investigative fee of \$50.00 that shall be payable for any renewal of a food dealer's permit if the renewal application is not received in the offices of the health and human services department in completed form and accompanied by the permit fee therefor on or before the date of expiration of the permit to be renewed. For purposes of this fee, any new permit issued to the same person(s) for a food establishment at the same location shall be deemed to be a renewal, unless the person(s) demonstrate to the health officer, by clear and convincing evidence, that the food establishment has not been operated since the prior permit expired.

This special investigative fee is imposed to partially defray the additional inspection and administrative costs related to late renewals. It shall not be considered to be a civil or criminal penalty, nor shall its imposition bar or constitute a defense to any prosecution for operation of a food establishment without a food dealer's permit.

(c) The fees otherwise required by this section shall not be imposed by the health officer for the issuance of a food dealer's permit to operate a temporary food service establishment within a city park if each of the following criteria is met:

- (1) The temporary food service establishment is being operated by a community-based organization as part of a public gathering for which a permit has been issued under article III of chapter 32 of this Code, and the director of parks and recreation has waived user fees for the gathering pursuant to section 32-69(f) of this Code;
- (2) All persons responsible for organizing and working in the temporary food service establishment are unpaid volunteers; and

- (3) All proceeds from the operation of the temporary food service establishment are retained to be used for the benefit of the community-based organization or are donated to the city.

The provisions of this subsection shall not be construed to excuse the community-based organization from obtaining a temporary food dealer's permit or from complying with any other applicable provision of this article.

(Ord. No. 99-1346, § 1, 12-15-99; Ord. No. 02-528, § 13b., 6-19-02; Ord. No. 04-91, § 2, 2-4-04)

Sec. 20-39. Frozen desserts retail establishments.

(a) In addition to any other information required to be furnished to the health officer pursuant to section 20-36 of this Code, each applicant for a food dealer's permit shall be required to disclose to the health officer whether the proposed establishment or mobile food unit constitutes a frozen desserts retail establishment. The term "frozen desserts retail establishment," as used in this section, shall mean any premises, including a retail store, approved type stand, hotel, restaurant, vehicle or mobile unit, where frozen dessert mixes are frozen or partially frozen and dispensed for retail sale or distribution.

(b) Each holder of a valid and unexpired food dealer's permit under this division who desires to commence operating a frozen desserts retail establishment shall make an application for a frozen desserts retail establishment permit for the affected premises or mobile food unit to the health officer on forms provided by the health officer.

(c) There is hereby levied an annual fee for the frozen desserts retail establishment permit of \$110.00, which shall be payable to and collected by the health officer in conjunction with and in addition to the fees prescribed in section 20-38 of this Code for the issuance of a food dealer's permit. In the event that the term of an applicant's frozen desserts retail establishment permit has a shorter duration than the term of its food dealer's permit, the fee for the frozen desserts retail establishment permit shall be prorated for the unexpired term of the food dealer's permit at the rate of \$9.00 per month for each full month or

portion of a month remaining thereon, provided that the minimum prorated fee shall be \$54.00. The annual fee for a frozen desserts retail establishment permit for a frozen desserts retail establishment operated by a nonprofit organization shall be \$45.00; the fee shall not be subject to proration.

(d) A holder of a frozen desserts retail establishment permit that has lost the permit may obtain a replacement permit from the health officer for a fee of \$10.00.

(Ord. No. 99-1346, § 1, 12-15-99; Ord. No. 02-528, § 13c., 6-19-02)

Sec. 20-40. Term.

A food dealer's permit shall be valid for one year from the date of issuance and shall be renewed on or before the expiration date of the previous permit. Each mobile food unit medallion shall be valid for one year from the date of issuance and shall be renewed on or before the expiration date of the previous medallion.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-41. Suspension.

(a) The director of the health and human services department, or at the director's designation in writing, the deputy director, the assistant director of personal health services, or the assistant director of administrative support services, may suspend any food dealer's permit or any medallion to operate a mobile food unit, with notice as is reasonable under the circumstances, if the permit or medallion holder does not comply with the requirements of this article, or if the operation of the food processing or food service establishment or mobile food unit otherwise constitutes a substantial hazard to public health. Without exclusion of any other grounds, operation of a food establishment in violation of any provision of section 20-53 of this Code is in and of itself sufficient cause for a suspension. Suspension is effective upon service of the notice required by subsection (b) below. Where a permit or medallion is suspended, food processing and/or food service operations shall immediately cease.

(b) Whenever a permit or medallion is suspended, written notice shall be given to the permit or medallion holder or the person in charge or any employee or agent of the food establishment or mobile food unit. The notice shall set forth:

- (1) The specific conditions in the food establishment or mobile food unit that are in violation of this article or that constitute a substantial hazard to public health;
- (2) That a hearing will be held before a hearing officer;
- (3) The date, time and place of the hearing; and
- (4) That the permit or medallion holder may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

The hearing shall be held not later than ten days after the date the permit or medallion is suspended.

(c) Whenever a permit is suspended, it shall be physically removed from the premises by the health officer and retained at the department until the suspension has terminated.

(d) Whenever a medallion is suspended, it shall be physically removed from the mobile food unit in violation by the health officer.

(e) All hearings shall be conducted by a person designated by the director of health and human services, who shall be referred to as the hearing officer. The director shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection of the food establishment or mobile food unit, or has prior knowledge of the allegations or circumstances discovered in the inspection or inspections except the person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the permit or medallion holder or the person in charge.

(f) All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to the hearings:

- (1) All parties shall have the right to representation by a licensed attorney though an attorney is not required.

- (2) Each party may present witnesses in his own behalf.
- (3) Each party has the right to cross-examine all witnesses.
- (4) Only evidence presented before the hearing officer at the hearing may be considered in rendering the order.

(g) If the permit or medallion holder fails to appear at the hearing at the time, place, and date specified, the city shall present sufficient evidence to establish a prima facie case showing violation of this article or conditions constituting a hazard to public health that formed the basis of the suspension of the permit or medallion.

(h) If the hearing officer finds that the food service establishment, food processing establishment or mobile food unit was, in fact, in violation of this article or that it constituted a hazard to public health, the hearing officer shall make written findings of fact and shall order the permit or medallion suspended until all violations of this article are corrected and any conditions constituting a hazard to public health are eliminated. A copy of the findings and order of the hearing officer shall be sent by certified mail, return receipt requested, to the permit or medallion holder.

(i) If the hearing officer finds that the public interest will be adequately protected by a warning or other penalties authorized under this article, he may reinstate the permit or medallion.

(j) Whenever the reasons for a suspension no longer exist, the permit or medallion holder or person in charge shall notify the health officer that the conditions under which the permit or medallion was suspended have been corrected and that an inspection is requested. The inspection shall be conducted as soon as possible after the request is received and in no event no later than three regular working days after the receipt of the request for inspection.

(k) When a mobile food unit medallion that has been suspended is reinstated, a new medallion shall be affixed to the unit at no extra cost to

the owner or operator. A reinstated medallion shall include all of the same information as appeared on the medallion that was suspended. (Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-42. Revocation.

(a) A food dealer's permit or medallion to operate a mobile food unit may be revoked if:

- (1) The permit holder or his agents or employees interfere with an inspection of the food establishment by a health officer; or
- (2) There are repeated or serious violations of the applicable portions of this article; or
- (3) There are repeated or serious violations of federal or state food laws or laws regulating food establishments as defined in this article; or
- (4) In the case of mobile food units, if the permit holder or his agent has not reported an accident to the health officer within 24 hours of the time the accident occurred if the accident resulted in the damage of the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of the provisions of section 20-22 of this Code.

(b) Prior to revocation, written notice shall be given to the permit or medallion holder or person in charge. The notice shall set forth:

- (1) The grounds upon which the city will seek revocation of the permit;
- (2) The specific violations of this article or of federal or state law upon which the city will rely in seeking revocation of the permit;
- (3) That a hearing will be held before a hearing officer;
- (4) The date, time and place of the hearing; and
- (5) That the permit or medallion holder may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

(c) The hearing shall be held in accordance with subsections (e) through (g) of section 20-41 of this Code. If the permit or medallion holder fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed that constitutes grounds for revocation of a permit.

(d) After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the

permit or medallion. If the hearing officer finds that grounds do exist for revocation, he shall revoke the permit or medallion. A copy of the written findings shall be sent by certified mail, return receipt requested, to the permit or medallion holder. If the address of the permit or medallion holder is unknown, or if the findings are returned undelivered, the findings shall be served on the person in charge of the food establishment or mobile food unit.

(e) If the hearing officer revokes the permit or medallion, written notice of the revocation shall be served on the permit or medallion holder or the person in charge with a copy of the findings.

(f) Upon service of a written notice that the permit or medallion has been revoked as provided herein, all food operations shall cease immediately.

(g) Whenever a permit or medallion is revoked, it shall be physically removed from the premises or mobile food unit by the health officer.

(h) In the event a permit or medallion is revoked, the city shall not be liable to the permit holder for any refund of any part of the permit fee. Reinstatement of a permit that has been revoked shall require application and payment of a permit fee as if it were an initial application.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-43. Service of notices.

Any notice provided for in this article may be served by personal delivery or by certified mail, return receipt requested.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-44. Special employee training.

(a) The department shall, upon request, conduct employee training for employees of food establishments in basic sanitation and food handling methods at a fee of \$10.00 per employee. The training shall be conducted at the food establishment or at another place provided by the food establishment operator as may be mutually convenient to the operator of the food establishment and the department.

(b) In any instance in which a food dealer's permit or a medallion to operate a mobile food unit is suspended or revoked pursuant to this article, the hearing officer shall make a finding as to whether the violations giving rise to the suspension or revocation are based in substantial part upon failure of the establishment's employees to utilize proper sanitation or food handling methods. If the hearing officer so finds, then the director shall require, as a condition of lifting the suspension or issuing a new license, that all employees of the food establishment or mobile food unit who are involved in any manner with the implementation of sanitation practices or the handling of food receive the training provided pursuant to subsection (a) above.

(c) In any instance in which a food establishment or mobile food unit elects to voluntarily cease food manufacturing production, preparation, processing, packaging or service operations on a temporary basis at the request or suggestion of the health officer to correct deficiencies relating to sanitation or food handling practices or under threat of the implementation of a formal suspension or revocation proceeding under this article on grounds relating to sanitation or food handling practices, the health officer shall, as a condition of waiving the implementation of or the taking of further action on the suspension or revocation proceeding, require that the operator agree to cause all employees who are involved in any manner with the implementation of sanitation practices or the handling of food to receive the training provided pursuant to subsection (a) as a condition of reopening the establishment.

(Ord. No. 99-1346, § 1, 12-15-99)

Secs. 20-45—20-51. Reserved.

DIVISION 3. FOOD SERVICE MANAGER'S CERTIFICATION

Sec. 20-52. Program established.

There shall be a program of food service manager's certification conducted under the direction of the health officer. The program shall have as its primary goal the training of persons in managerial positions within the food service in-

dustry in safe food handling practices, including knowledge of the provisions of this article. Training shall be accomplished by means of a special course that will be made available to those persons seeking certification. Certification shall be accomplished after all course requirements have been met and the applicant has demonstrated by means of an examination that he possesses the required minimum essential knowledge as determined by the health officer.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-53. Food service manager requirements.

(a) It shall be unlawful for any person to own, operate or cause to be operated any food establishment unless the person in charge thereof has in his possession a valid and current food service manager's certification issued to him pursuant to this division. It is a defense to prosecution under this subsection:

- (1) That the food establishment was not engaged at the time of the alleged offense in the manufacturing, production, preparation, processing, packaging, or service of food or in the conduct of any make-ready activities commenced prior thereto or cleanup activities performed afterwards; or
- (2) That the food establishment is a retail food store in which all food sold or offered for sale is received, kept and sold in the manufacturer's unbroken sealed packages or a packaged-food-only food establishment; or
- (3) That the food establishment is a restricted bar or a restricted warehouse; or
- (4) That the food establishment is a temporary food establishment that has been exempted under subsection (c) below.

(b) It shall be unlawful for any person to own, operate, or cause to be operated any food preparation area unless the food service manager has in his possession a valid and current food service manager's certification issued to him pursuant to this division. It is a defense to prosecution under this section:

- (1) That the kitchen was not, at the time of the alleged offense, in use for the manu-

facturing, production, preparation, processing or packaging of food or the conduct of make-ready activities commenced prior thereto or cleanup activities performed afterward; or

- (2) That the kitchen is a part of a temporary food establishment that has been exempted pursuant to subsection (c) below.

(c) A person applying for a permit to operate a temporary food service establishment shall be exempted by the health officer from the food service manager's certification requirements if the applicant demonstrates to the health officer evidence of an adequate understanding of this article and an adequate understanding of safe and sanitary operating and food handling practices and is not simultaneously associated with another food service operation in the city.

(d) A food service manager's certification is not transferable from one person to another.

(e) When the person in charge is not required to have in his possession a valid and current food service manager's certification as specified in (a) (1), (2), (3) or (b) (1) above, the person in charge shall demonstrate knowledge.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-54. Application for certification; training course generally.

(a) Any person desiring an original or renewal food service manager's certification shall make written application for certification on forms provided by the health officer. The application shall include:

- (1) The applicant's full name and post office address;
- (2) Identifying features such as color of hair, eyes, height, sex, age;
- (3) The applicant's Texas driver's license or personal identification certificate number;
- (4) The name and address of the establishment where the applicant is currently employed;

- (5) The signature and title of the applicant; and
- (6) If the application is a renewal application, proof of the date of expiration of the prior certification issued hereunder that is to be renewed.

(b) A completed application for food service manager's certification shall serve as a request for enrollment in a special course of training conducted under the direction of the health officer.

(c) Applications for renewals of certifications must be received by the department, accompanied by the applicable fee on or before the thirtieth day following the expiration of the certification that is to be renewed. Otherwise, the certification shall not be subject to renewal, and the applicant will be required to apply for an initial certification.

(d) All applications for food service manager's certification must be accompanied by the appropriate fee as set forth in section 20-57 of this Code.

(e) The health officer may deny an application for a food service manager's certification if any person knowingly makes any false, fraudulent, or unlawful statement on the application.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-55. Duration of certification course; passing grade.

(a) The special course of training for food service manager's certification shall be at least 15 hours in length for initial certifications and at least seven hours in length for renewal certifications.

(b) Courses will be scheduled periodically to allow all qualified individuals the opportunity for training.

(c) All persons completing the applicable course of training for food service manager's certification shall be required to demonstrate by means of an examination that they possess a minimum essential knowledge of safe food handling practices, including an acceptable knowledge of this article. A passing score for this examination shall be at least 70 points out of a possible 100.

(d) If an applicant for initial certification or for renewal certification fails to pass the required examination after taking the applicable training course, he must take the initial certification course before taking another examination. In order to take the training course an applicant must submit another completed application accompanied by payment of the full applicable fee for an initial application.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-56. Issuance of certification.

(a) A person may be issued a food service manager's certification if he has satisfactorily completed the requirements set forth in sections 20-54 and 20-55 of this Code. The certification shall be in the form of an identification card, and shall include the applicant's full name and post office address; the date issued and the expiration date. Certification shall also be in the form of a wall certificate containing pertinent information that shall be posted in view of the public in the establishment that the certified person manages.

(b) A person possessing a food service manager's certification card shall have the card on his person as proof of certification at all times while on duty.

(c) A person possessing a food service manager's certification card shall present the card along with a current driver's license, state personal identification card or other governmentally issued photographic identification of the person certified for examination when requested to do so by the health officer.

(d) Valid food service manager's certification cards remain the property of the department and may be required to be surrendered to the health officer to be voided upon revocation or when it has been posted or used in an unlawful manner.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-57. Fees.

Fees for food service manager's certification and each renewal thereof are as follows:

- (1) *Food service manager's certification.* An application fee of \$45.00 shall be required to be paid to the health officer at the time

of filing of an initial application. An application fee of \$30.00 shall be required to be paid to the health officer at the time of filing of a renewal application. The application fees are nonrefundable unless duplicated.

- (2) *Replacement of certification card.* An individual who has lost a valid, current food service manager's certification card may obtain a replacement wall certificate and corresponding certification card from the health officer for a fee of \$10.00.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-58. Expiration.

A food service manager's certification shall be valid for a period of three years from the date of its issuance. Unless a duly completed application for renewal is timely filed as provided in section 20-54(c) of this Code, a certification shall not be subject to renewal. The filing of an application for renewal shall not be construed to extend the expiration of a certification, and the filing of an application for renewal shall not constitute any authority to act as a food service manager pending the actual issuance of the renewal certification.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-59. Revocation.

(a) A food service manager's certification may be revoked if:

- (1) The food service manager interferes with an inspection of the food establishment by the health officer.
- (2) There are repeated or serious violations of this article in the food establishment at times the food service manager is employed by that food establishment.
- (3) There are repeated or serious violations of federal or state food laws or laws regulating the operation of the food establishment at time the food service manager is employed by that food establishment.

(b) Prior to revocation of a food service manager's certification, written notice shall be given to the food service manager and to the holder of the food dealer's permit for the establishment in which the food service manager is employed. The notice shall set forth:

- (1) The grounds upon which the city will seek revocation of the certification;
- (2) The specific violations of this article or of federal or state laws upon which the city will rely in seeking revocation of the certification;
- (3) That a hearing will be held before a hearing officer;
- (4) The date, time and place of the hearing; and
- (5) That the food service manager may appear in person and/or be represented by counsel, may present testimony, and may cross-examine all witnesses.

(c) The hearing shall be held in accordance with subsections (e) through (g) of section 20-41 of this Code. If the food service manager fails to appear at the food hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed that constitute grounds for revocation of the certification.

(d) After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the certification. If the hearing officer finds that grounds do exist for revocation, he shall revoke the certification. A copy of the written findings shall be furnished by personal delivery or by certified mail, return receipt requested, to the food service manager and to the holder of the food dealer's permit for the establishment in which the food service manager is employed.

(e) If the hearing officer revokes the certification, written notice of the revocation shall be served on the food service manager and the owner of the food dealer's permit with a copy of the findings.

(f) Upon receiving written notice that the food service manager's certification has been revoked, the food service manager shall submit the certification card to the health officer. In the event a certification is revoked, the city shall not be liable for any refund of any part of the fee paid for the certification.

(g) A person whose food service manager's certification has been revoked shall not be granted a new certification until he has attended a course of training, passed the required examination subsequent to the revocation, and met all requirements of an initial applicant.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-60. False, fraudulent statements on application.

It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement on any application for food service manager's certification or in any way knowingly conceal any material fact or give or use any fictitious name in order to secure or aid in securing a food service manager's certification required by this division. Any food service manager's certification card so secured shall be void.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-61. Fraudulent use of certification.

It shall be unlawful for any person to fraudulently make use of, in any manner for his own or another's benefit or advantage, a food service manager's certification that has not been duly issued to him in accordance with the provisions of this division.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-62. Interpretation.

This article shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-63. State accreditation; reciprocity.

Notwithstanding any other provision of this division a person who provides written proof that he has completed a training program accredited

by the State of Texas pursuant to subchapter D of chapter 438 of the Health and Safety Code; or similar food safety courses offered by the International Food Safety Council within the immediately preceding period of three years and makes application as otherwise provided in section 20-54(a) of this Code shall be issued a certification under this division. A certification so issued shall expire on the third anniversary of the date that the applicant completed the state accredited or other training program. The application fee for a certification issued under this subsection shall be reduced to \$10.00.

(Ord. No. 99-1346, § 1, 12-15-99)

Sec. 20-64. Bed and breakfast limited.

The owner or other person who principally manages the food service operations of a bed and breakfast limited, as defined in section 20-18 of this Code, must be certified, regardless of whether the establishment is required to have a food dealer's permit.

(Ord. No. 99-1346, § 1, 12-15-99)

Secs. 20-65—20-80. Reserved.

*Cross reference—Restrictions on location of slaughterhouses, § 10-271 et seq.